



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,142	09/22/2003	Isao Kakuhari	2003_1330A	5803
513 7590 03/17/2009 WENDEROTH, LIND & PONACK, L.L.P. 1030 15th Street, N.W., Suite 400 East Washington, DC 20005-1503				
EXAMINER				
LAO, LUN S				
ART UNIT		PAPER NUMBER		
2614				
MAIL DATE		DELIVERY MODE		
03/17/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/665,142

Applicant(s)

KAKUHARI ET AL.

Examiner

LUN-SEE LAO

Art Unit

2614

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 06 March 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Vivian Chin/
Supervisory Patent Examiner, Art Unit 2614

Continuation of 11. does NOT place the application in condition for allowance because: Applicant argued that rejection under 112 first paragraph for claim 47 (see the remarks page 1, last paragraph). The claim 37 recited "one loudspeaker comprises a plurality of loudspeakers.". Applicant point out the the specification paragraph 66 and figs. 16-17 and the cell 20 includes for loudspeakers 1a to 1d) for supporting the claim limitation.

The examiner disagrees that. The specification does not disclose at least one loudspeaker comprises a plurality of loudspeakers in paragraph 66 and figs. 16, 17 which applicant points out. Person of ordinary skill in the art would recognize that the cell is not a speaker and a speaker is not a cell. Therefore, the 112 first paragraph rejection will be maintained.

Applicant argued that. Mason does not properly disclose any reason to have the feature of the enclosed space as defined in claims 17 and 37 for noise reduction between the external noise source and the wall (see the remarks from page 3, 4th paragraph to page 6, first paragraph).

The examiner disagrees that. Fuselage is noise source as stated by Mason. Person of ordinary skill in the art would recognize that the fuselage is external to the aircraft cabin. Since the aircraft cabin inherently defines an enclosed space (due to the requirements for flying at high altitudes). Mason teaches a housing (the aircraft cabin which including 106 in fig. 2), to be attached to a surface (102) of the wall so as to face the external noise source (102 and N noise by vibration surface 102) and thereby block a noise propagation path, for generating an enclosed space (reads on, the space of the aircraft cabin and see col. 2 line 35-52) for noise reduction between the external noise source (102) and the wall (reads on, the wall of the aircraft cabin and see col. 2 line 35-52); a loudspeaker (104), to be attached to the housing (the aircraft cabin which including 106 in fig. 2) so as to face the external noise source (N noise) and thereby block the noise propagation path, for radiating sound into the enclosed space (reads on, space of the aircraft cabin and see col. 2 line 35-52); a sound detector (reads on, motion sensor (200)) to be placed within the enclosed space for detecting sound propagated from the external noise source through said loudspeaker (104); and a control arrangement (202) for causing said loudspeaker (104) to radiate sound so as to minimize sound to be detected by said sound detectors (200), based on a results corresponding to the sound as detected by said sound detector (200 and see col. 5 line 1- col. 6 line 17). It meets the limitation as recited in claim 17 and 37. Applicant's arguments are not persuasive.